

HF
73
J6H3

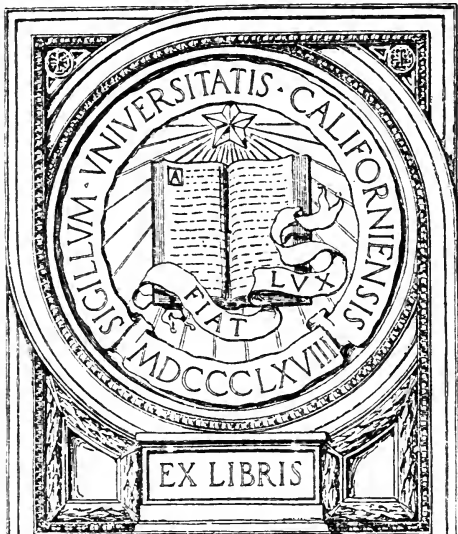
UC-NRLF



\$B 30 014

YD 11538

EXCHANGE



EX LIBRIS

THE MACHINERY OF FEDERAL REGULATION OF COMMERCE

THESIS

PRESENTED TO THE FACULTY OF THE GRADUATE SCHOOL OF THE
UNIVERSITY OF PENNSYLVANIA IN PARTIAL FULFILMENT
OF THE REQUIREMENTS FOR THE DEGREE OF
DOCTOR OF PHILOSOPHY

BY

DAVID SCOTT HANCHETT



PHILADELPHIA

1915

THE MACHINERY
OF
FEDERAL REGULATION
OF
COMMERCE

THESIS

PRESENTED TO THE FACULTY OF THE GRADUATE SCHOOL OF THE
UNIVERSITY OF PENNSYLVANIA IN PARTIAL FULFILMENT
OF THE REQUIREMENTS FOR THE DEGREE OF
DOCTOR OF PHILOSOPHY

BY

DAVID SCOTT HANCHETT

— LIBRARY OF
CALIFORNIA

PHILADELPHIA

1915

HF 73
.U6 H3

The following pages are reprinted from
Volume II of "The History of the Domestic
and Foreign Commerce of the United States,"
published by the Carnegie Institution of
Washington.

PART THREE

**GOVERNMENT AID AND COM-
MERCIAL POLICY**

By D. S. HANCHETT

336270

Digitized by the Internet Archive
in 2007 with funding from
Microsoft Corporation

CHAPTER XXXVII.

THE MACHINERY OF FEDERAL REGULATION OF COMMERCE.

Regulation of commerce before 1789, 241. The commerce clause of the Constitution, 242. Powers of the President regarding commerce, 243. Commercial functions of Department of State, 244. The Department of War, 245. Department of the Treasury, 246. The customs service, 246. Revenue cutter service, 248. Life-saving service, 249. Marine Hospital, 249. Bureau of Public Health, 250. Quarantine service, 250. The Post Office Department, 251. Department of Justice, 251. Department of the Navy, 252. Hydrographic Office, 252. Department of the Interior, 253. The Department of Agriculture and the Weather Bureau, 254. Department of Commerce: the lighthouse service, 255; the Bureau of the Census, 256; the Coast and Geodetic Survey, 257; the Bureau of Foreign and Domestic Commerce, 258; the Bureau of Standards, 260; Steamboat-Inspection Service, 261; the Bureau of Navigation, 262; the Bureau of Corporations, 263. Department of Labor, 263. Independent governmental and international agencies, 264. The judiciary and legislative agencies, 265.

From the earliest days of its history the United States Government has been active in the control and regulation of commerce. Before the outbreak of the Revolutionary War the American colonists were accustomed to the regulation of commercial matters by the British Government, and it is not surprising that, when independence was declared, the Continental Congress should have proceeded to regulate trade matters. While it possessed no authority to do so, its action was nevertheless respected by the several States during the revolutionary crisis. As early as 1775 the Continental Congress opened American ports to the ships of all countries, prohibited the slave trade, and assumed the management of the post-office. The first treaty of commerce (with France) providing for reciprocal trade was negotiated along with the treaty of alliance in 1778. But these *de facto* powers did not become *de jure* at once. The colonists had not entirely learned the lesson of cooperation. The Articles of Confederation, adopted by Congress in 1777, and ratified by all of the States by 1781, gave Congress no power to make commercial regulations.

The various State governments not only placed varying restrictions upon foreign trade, but often imposed burdensome duties on interstate traffic as well, and retaliation—commercial war in fact—was the result. Effective regulation of trade under the Articles of Confederation was impossible, and furthermore, individual States obstinately prevented the adoption of several amendments to the Articles which were then brought forward with a view to conferring upon Congress a certain degree of regulative power.

The unfortunate commercial situation was the chief reason for the change in the form of government effected by the adoption of the Federal Constitution in 1789. Of the various powers conferred by that instrument on the Federal authorities none were more important than

those relating to the control of domestic and foreign trade, and to the various institutions with which the operations of commerce are closely related. Among all the influences which contributed to the economic prosperity of the Republic during the early years of its existence, none was more potent than the system of commercial regulation, the adoption of which was made possible by the Constitution.

The commerce clause, Article I, section 8, of the Constitution, provides that "the Congress shall have Power . . . to regulate Commerce with foreign Nations, and among the several States and with the Indian Tribes." Additional clauses of the same article and section grant to Congress the power "to lay and collect taxes, duties, imposts and excises, to pay the debts and provide for the common defense and general welfare of the United States; but all duties, imposts and excises shall be uniform throughout the United States;" and "to make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the Government of the United States, or in any department, or officer thereof." The power thus conferred has from time to time been broadly construed by the Supreme Court, and as a consequence the activities of the Federal Government in the regulation of foreign and domestic trade have constantly increased.

Commerce has so many phases and touches so many sides of national life, that it would be impossible to place under a single officer or even in a single department all the governmental functions relating to it. Each of the three great branches of the Federal Government, the executive, the legislative, and the judicial, has a part in the regulation of trade. The President and the various executive departments immediately under him, the Federal Congress, with its permanent and special committees, and the Federal courts, from the beginning, had commercial functions to perform, and with the rapid increase in the volume and complexity of the trade of the nation and with the steady growth of Federal control, the machinery for the regulation of commerce became more elaborate and complex. In 1903 it was found advisable by Congress to create a new executive department, the Department of Commerce and Labor, under the jurisdiction of which was placed a large number of bureaus, boards, offices, and services which had formerly been attached to other executive departments. In 1913 this policy of segregation of work in department matters relating to commerce was further carried out by creating a Department of Labor separate from the Department of Commerce. It must not be supposed, however, that all of the governmental services which relate to this field have been placed under the Secretary of Commerce. All of the executive departments, as well as Congress and certain Federal courts, exercise commercial functions, and there is a large number of subordinate bureaus and offices which have a part in the work of aiding and regu-

lating the interstate and foreign trade of the nation. It is the purpose of this chapter to give briefly the history of the administrative regulation of commerce by the various divisions of the Federal Governmental machinery.¹

POWERS OF THE PRESIDENT REGARDING COMMERCE.

At the head of the executive branch of the government stands the President of the United States. His influence upon commerce is exerted in numerous ways, his appointing power being first in importance. Upon the character of the men whom he selects for such offices as Secretary of Commerce or Interstate Commerce Commissioner depends in large measure the efficiency of governmental control of commerce. While, indeed, appointments are made "by and with the advice and consent of the Senate," in practice the President is but little restricted by the Senate in naming men to fill cabinet positions. Furthermore, by virtue of his power of removal, of the broad powers of direction which he exercises over the work of the executive departments, and by means of his ordinance power, the President exerts great authority over the machinery of regulation. A recent example of the exercise of the ordinance power will serve to illustrate its importance. On November 13, 1912, President Taft by proclamation established the tolls which are to be levied on ships passing through the Panama Canal, and on November 21, 1913, President Wilson fixed the rules for determining the tonnage upon which vessels shall pay the tolls that are levied, thereby affecting the commerce, not only of the United States, but of the world, to the extent of determining the conditions under which the Panama Canal may be used.

Another and very specific way by which the power of the President is exercised over commerce is through his special authority over foreign relations. The Secretary of State gives to diplomatic relations his special attention, but upon the President personally depends in large measure the success of negotiations with other powers as regards commercial privileges, and the rights of aliens in trade with and in the United States.²

While the treaty-making power is exercised by the President, by and with the advice and consent of the Senate, he is obliged to respect the power of Congress over commerce, and must observe in commercial treaties the policies established by the laws of Congress. Conflicts have arisen with respect to the power of the President and Congress in relation to commercial treaties, but the Supreme Court has declared³

¹It will be noticed that much of the language used in this part of this volume is in the present tense. In giving a history of the agencies of government for the regulation of commerce it seems advisable, and, indeed, almost necessary, to state what the commercial functions of the several departments and bureaus now are and to state when and how those powers and duties concerning commerce were conferred upon the existing agencies of the government. "Present" conditions are those of 1913.

²Fairlie, *The National Administration of the U. S., of America*, 29.

³*United States vs. Lee Yen Tai*, 185 U. S. 213.

that "as Congress may by statute abrogate, so far at least as this country is concerned, a treaty previously made by the United States with another nation, so the United States may by treaty supersede a prior act of Congress on the same subject." The act or treaty which bears the most recent date is controlling, and the President may therefore, in effect, if he can secure the consent of the Senate, supersede Congressional action by the negotiation of commercial (or other) treaties.

The President, acting through the State Department, prepares the formal draft of a treaty and then seeks the "advice and consent," that is the ratification, of the Senate. The difficulty of securing the approval of two-thirds of the Senators present has sometimes required the negotiation of a new treaty or the acceptance by the countries parties to the treaty of amendments proposed by the Senate as conditions precedent to favorable action. The Senate's rejection of, or failure to accept, a treaty has given rise to some of the "executive agreements" which the President has made with foreign countries. President Roosevelt's agreement with Santo Domingo in 1905, whereby the supervision of Dominican finances was undertaken by American citizens, arrangements were made for paying the foreign debt, and American battleships were sent to the island, followed the refusal by the Senate to ratify a treaty the chief terms of which were those embodied in the executive agreement.

The use by the President of his military powers to keep open the channels of interstate commerce during strikes and riots makes him the ultimate authority to whom appeal must be made in times of crisis to keep the machinery of commerce going. The President is, in fact, the supreme director, while the ten great administrative departments, at the head of each of which is a Cabinet officer of his selection, comprise in large part the mechanism through which he acts.

COMMERCIAL FUNCTIONS OF THE DEPARTMENT OF STATE.

Logically, it might seem better to consider the commercial functions of the ten departments by beginning with the Department of Commerce, to which is now intrusted the fulfillment of most of the functions under consideration. In order, however, to show more effectively the historical growth of the administrative bodies dealing with commerce, the departments will be considered chronologically.¹

The Department of Foreign Affairs was created by Congress July 27, 1789, and on September 15 following the present title was adopted. The department was the successor of the Department of Foreign Affairs, created in 1781 to handle matters which had, since 1775, been delegated to committees of Congress.² The early functions of the

¹*History of the Department of State of the United States*, 1901, 14.

²*Checklist of United States Public Documents, 1789-1909*, p. 891.

State Department were more comprehensive than they are now. The Secretary of State was originally at the head of the Patent Office, and his department had control of the census, and although both of these offices, which bear important relations to commerce, have been transferred to other departments, the State Department still exercises commercial functions of great importance. Foreign relations, the supervision of which was the primary purpose for which this oldest one of the executive departments was organized, have always been handled by it through the diplomatic service, which, in 1913, included 157 officers who represented the United States in 48 countries. The Secretary of State and the diplomatic representatives abroad have large commercial responsibilities, for it is through them that commercial treaties are negotiated and the rights existing by virtue of those treaties are enforced. The general functions of the service were stated as follows by Frederick T. Frelinghuysen, Secretary of State under President Arthur:

"The diplomatic officer does for the nation what the consular officer does for the citizen. Speaking generally, the consul aids the individual and protects separate interests, while the minister acts for the nation and guards its general political and commercial welfare."¹

With the details of commercial affairs the diplomat is not usually concerned, but one of his chief duties is to cooperate with consular officers in promoting American commerce, agriculture, and manufactures. The consular service is fully considered in the following chapter. The Bureau of Citizenship supplements the work of the foreign service by issuing passports, examining certificates of the registration of American citizens in consulates, authenticating documents for use abroad, and furnishing to citizens letters of introduction to members of the foreign service. Lists of American diplomatic and consular officers are furnished to interested parties by the Bureau of Appointments.²

THE DEPARTMENT OF WAR.

The second of the executive departments was established August 7, 1789, eleven days after the creation of the Department of Foreign Affairs. Its chief commercial function is the improvement of rivers and harbors, and the magnitude of its operations in this work will appear in the consideration of that subject in Chapter XL.

The War Department and the Secretary of War, acting through the Bureau of Insular Affairs and the Corps of Engineers, have important duties in the outlying territories of the United States. The Canal Zone in Panama was administered by the Secretary of War, through the Isthmian Canal Commission, from 1904 to 1914, when it was placed

¹Exec. Doc. No. 146, 48 Cong., 1 sess., p. 1.

²*Congressional Directory*, 63 Cong., 3 sess., 292.

under the governor of the Panama Canal, who is subordinate to the Secretary of War. To the Bureau of Insular Affairs, established in 1898 as a "division" and made a bureau in 1902, under the immediate control of the Secretary, is assigned all matters pertaining to insular civil government. Among the commercial functions of the bureau is the gathering and publication quarterly of statistics of insular exports and imports, shipping, and immigration. Porto Rico was granted civil government by the act of April 12, 1900, and until June 30, 1908, its governor, who is appointed by the President of the United States, was required to report to the State Department. Thereafter jurisdiction was vested in the War Department. Various measures of commercial assistance, including the improvement of San Juan harbor, have been prosecuted by the United States. Civil government was established in the Philippines by the act of July 1, 1902, and the islands are governed by a commission which was organized in 1904 and is subject to the Secretary of War.

THE DEPARTMENT OF THE TREASURY.

The Treasury Department is vitally concerned with commerce, which it aids and regulates through five different agencies—the Customs Service, the Revenue Cutter Service, the Commissioner of Internal Revenue, the Life-Saving Service, and the Bureau of Public Health. In the constitutional convention, upon the initiative of Gouverneur Morris, an effort was made to designate the chief officer of the department as the "Secretary of Commerce and Finance."¹ Although this was not the title adopted, the Treasury Department nevertheless had, from the beginning, a very considerable supervision over commerce, and before the establishment of the Department of Commerce and Labor, in 1903, it was the most intimately concerned with commerce of all of the executive departments. Its former primacy in this respect is apparent when it is remembered that, in addition to the services which it still performs, the department in 1903 also included the Lighthouse Board, the Coast and Geodetic Survey, the Steamboat-Inspection Service, the Bureau of Navigation, the Bureau of Immigration, the Bureau of Statistics, and the Bureau of Standards. All of these bureaus and services were then transferred to the new Department of Commerce and Labor, but the Treasury Department nevertheless retained many important duties respecting the regulation of commerce.

Important commercial functions are exercised by the Customs Service, which, as one of the first necessities of government, was established by the act of September 2, 1789, in the Treasury Department, where it has remained. From 1849 to 1894 there was a Commissioner of Customs, whose functions were rather those of an auditor than of an administrative officer, and whose office was discontinued when

¹*Organization and Law of the Department of Commerce and Labor*, 8.

the auditing service was reorganized. The general supervision of the service and of the Division of Customs, which was organized about 1870 to attend to administrative duties, is vested in the Assistant Secretary of the Treasury in charge of customs. An organization grew up which, in course of time, embraced a superabundance of offices and officers whose salaries were not adjusted to the demands made upon them. Finally, pursuant to the act of August 24, 1912, a reorganization was effected, designed to accommodate the machinery of collection to altered trade conditions. The 126 collection districts previously in existence were reduced in number to 49, and the designations "sub-port of entry" and "port of delivery" were abolished, "port of entry" being the only classification retained. A collector of customs has general supervision of each district, and a collector of the port has charge of each port.

The functions of the service pertain to the entry of ships from foreign ports, the levying of customs duties following an appraisal of imported goods, the hearing of appeals respecting appraisals, the departure of ships from port, and the enforcement of various navigation laws. Permission to discharge cargo is given to the master only after a sworn copy of the ship's manifest has been filed with the port collector, together with the clearance papers and register or a consul's receipt therefor. The tonnage tax, levied on all ships arriving from foreign ports, is then collected. A customs officer supervises the process of unloading. Consignees enter goods at the custom-house by presenting sworn invoices from the consignor or owner, and the goods are, moreover, appraised by examiners, appraisers, and assistant appraisers, and at the smaller ports by collectors themselves. In practice most of the work is done by individual examiners, upon whose knowledge and judgment depends the accuracy of the appraisal, inasmuch as the appraisers themselves are unable, at the more important ports, to review effectively the work of their subordinates.

Although admittedly inadequate, this appraisal assists in the detection of frauds. Appeal from it lies to the Board of General Appraisers, appointed by the President, which was a branch of the Treasury Department until 1909, since when it has been quasi-independent. The headquarters of the board are in New York, where two-thirds of the work is done. It serves as a reviewing board, with some functions analogous to those of a court. Appeal from its decisions lies to the United States Court of Customs Appeals.

When the appraisal has been completed, the customs duties are levied. Since the institution in 1846 of bonded warehouses, it has no longer been necessary to collect duties or to insure their collection before goods are landed, but the importer may, if he chooses, store the goods in a Government warehouse or in a private warehouse supervised by customs officers. After the outgoing cargo has been loaded and the

ship is ready to depart, its register is obtained, and a bill of health, certifying to the health conditions of the port, together with clearance papers, are secured from the collector. A ship from abroad is thus kept under the supervision of the customs service during the entire length of its stay in port. From the records of arrivals and clearances, and from the copies of ships' manifests filed with him, the collector compiles foreign trade and tonnage statistics which are published by a bureau in the Department of Commerce.

Customs officers also document ships flying the American flag; keep records of crew lists of departing ships; receive passenger lists of arriving ships; record bills of sale and mortgages of vessels; enforce the steamboat-inspection laws; and, where there is no shipping commissioner, carry out his duties with respect to the shipping of seamen.

In the collection of import duties the Customs Service is assisted by the Secret Service and the Revenue Cutter Service, which are likewise organized under the Treasury Department. The Secret Service, which was established in 1861, in the State Department, was transferred in 1865 to the Treasury Department, of which it has since been a division. Its work was formerly confined chiefly to the prevention of counterfeiting, but in 1911-12 its duties were increased, and it now cooperates with the Division of Special Agents maintained by the Treasury Department for the purpose of detecting customs frauds.

The Revenue Cutter Service, established in 1790, was known as the Revenue Marine Service until 1894. It is organized as a division in the Treasury Department, and does for the Customs Service on the sea what the Secret Service does for it on land. The officers of its revenue-cutters board inbound vessels from foreign ports, examine their papers, and indorse the manifests covering their cargoes. Besides aiding generally in the enforcement of the revenue laws, the service exercises many other functions. It cooperates with the Department of Commerce in enforcing the navigation and motor-boat laws, requires strict observance of the laws governing the anchorage and movement of vessels in port, enforces the quarantine and immigration laws, and suppresses mutiny aboard merchant vessels. The major part of the actual work of the service is of an emergency nature. It is called upon to assist vessels in distress, to remove derelicts from the ocean, and to save lives at sea. Its officers aid the life-saving corps by instructing, drilling, and inspecting crews and constructing stations. The wireless equipment of the revenue-cutters enables them to assist in the protection of life and property at sea.

Existing arrangements for the collection of internal revenue date from 1862, when the Civil War necessitated the reestablishment of taxes of this nature, which had not been collected at all since 1848. The Commissioner of Internal Revenue, who is at the head of the bureau of the same designation, superintends the enforcement of the

internal-revenue laws and the collection of the taxes. Inasmuch as the collection of these taxes ordinarily requires very little work, the chief duties of the internal-revenue forces are those of inspection. Until 1909 the activities of the bureau were confined to taxes levied on certain specified documents and articles of commerce. The special excise tax on corporations, authorized by Congress in that year, extended the field of operations materially, and the duties of the bureau were further increased and its collections vastly augmented in 1913, when the collection of the income tax, authorized by amendment of the Constitution, was made a duty of the bureau.

Life-saving stations were first established by the Federal Government in 1874, under the direction of the Revenue Marine Service, which had, however, previously been carrying on for a long time the work of life-saving at sea. In 1878, the Life-Saving Service was separately organized as a division in the Treasury Department, where it still remains, under the supervision of a general superintendent. The keepers and surfmen at the 284 stations maintained by the service keep a strict watch, patrol the coasts at night, warn ships of impending danger, rescue lives, and save property threatened with loss at sea. Valuable statistical reports are compiled showing marine casualties, not only within the field of operations of the service, but throughout the entire world. Miscellaneous minor services, such as the recovery of missing buoys and the relighting of extinguished beacons, are rendered.

Great modifications in the equipment of the service have made its work more effective. In 1912 there were in use 109 power life-boats and surf-boats, which not only increased the efficiency but extended the scope of the service. More disasters were brought within reach and many more rescues were reported than in the years prior to 1908, when power-boats were little used. The service operates nearly 1,500 miles of telephone lines, connecting with public telephones and wireless stations, so that it keeps in close touch with the Weather Bureau and with commercial centers. Facilities are thus provided for displaying promptly storm-warning signals and for furnishing to ship-owners and others information concerning vessels endangered by storms along the coast. In the 1,730 disasters reported to have occurred within the limits of operations in 1912, only 59 vessels were lost. The property saved, including vessels and cargoes, was valued at \$11,155,170.

National supervision of health matters is exercised through the Treasury Department, under the control of which the Marine Hospital of the United States was established in 1798. The purpose then aimed to be subserved was merely the provision of medical attention for sick and disabled seamen in the merchant marine. However, considerations of expediency caused a constantly growing emphasis to be placed on matters relating to the public health, and many new functions

were from time to time intrusted to the service. In 1902 the designation "Public Health and Marine Hospital Service" was adopted, and finally, in 1912, the designation "Bureau of Public Health" was applied and an organization effected designed to deal with the health of the nation in its broadest sense. The past and present services rendered by this branch of the department are best treated by a consideration of the work of its various divisions.

The Division of Marine Hospitals and Relief maintains 146 establishments, where medical care is given to the officers and crews of American vessels, as well as to government employes in various marine services, and conducts examinations for the detection of color-blindness in ship's officers. The work of this division embodies the earliest functions of the service.

Through the Division of Foreign and Insular Quarantine and Immigration, a service of ever-increasing importance is rendered. Although quarantine matters were originally left to the States, as early as 1796 and 1799 Federal legislation directed certain officials, such as port collectors and revenue-cutter officers, to assist in the execution of State legislation. The cooperation of the consular service was secured at an early date through reports on the existence of disease abroad and on the sailing of vessels bound from infected ports to the United States.

Federal interest in quarantine matters was, however, slight until in the late seventies, when a serious yellow-fever epidemic in the South led to an agitation for a national quarantine system. In 1878 the Secretary of the Treasury was authorized to establish a quarantine at ports where no State or municipal establishments existed. The following year a National Board of Health was established with authority to promulgate national quarantine regulations, which, if State authorities were unwilling to enforce, were to be carried out by Federal officers specially designated for the purpose. Another crisis came in 1893, when an epidemic of Asiatic cholera in European ports, whence emigrants sailed to the United States, led to the establishment of a more effective supervision. The National Board of Health was abolished, and control over quarantine vested in the Marine Hospital Service, and the strict supervision of the surgeon-general has since brought about the conformity of the State regulations with Federal regulations. Annual conferences of State and National health officials assist in securing uniformity of administration. In 1879 the National Board of Health was authorized to build temporary quarantine stations, which were made permanent in 1888. New stations have been authorized from time to time, until the service now maintains a total of 47 in the continental United States and 24 in outlying possessions.

Medical officers are stationed at fourteen American consulates to prevent the introduction into the United States of epidemic diseases. The Division of Foreign and Insular Quarantine and Immigration has

charge of the examination of arriving aliens, and, at the request of the Department of Labor, which supervises immigration, may require quarantine officers stationed at Italian consulates to inspect emigrants departing for the United States. Large immigrant hospitals are maintained at New York and San Francisco.

Interstate commerce is subject to the rules of the Division of Domestic (interstate) Quarantine, which is charged with preventing the spread of contagious or infectious diseases from one State or Territory into another.

THE POST-OFFICE DEPARTMENT.

When temporarily established in 1789, the post-office was considered a part of the Treasury Department, but in 1792 it was permanently established as the General Post Office. Although in 1829 the Postmaster-General was admitted to the Cabinet, it was not until 1872 that the post-office was recognized by Congress as an executive department. Aside from its indispensable function of supplying a prompt and safe mail service, it has secured for commerce greater security with respect to means of transportation than would otherwise have been enjoyed, through the insistence on the prompt movement of trains following the designation by Congress, in 1838, of every railroad in the United States as a post-route. Through the establishment of mail subsidies, which are discussed in Chapter XXXIX, improvements in ocean transportation services have been effected. Moreover, by itself becoming a carrier of parcels, first in 1890 through the international, and, in 1913, through the domestic parcel post, the Post Office Department has facilitated the movement of commerce. Experiments in rural free delivery, begun under the law of 1890, resulted in a rapid extension of this service after 1897. The postal savings system, established in 1911, had, within one and a half years, deposits amounting approximately to \$28,000,000, which, in the opinion of the Postmaster General, represented "hoarded money that is restored to the channels of trade." Post-office money-orders and the registered-mail service are both great commercial conveniences.

THE DEPARTMENT OF JUSTICE.

Although the Attorney General's office was established September 24, 1789, and the Attorney General was from the outset admitted to the Cabinet, the Department of Justice was not recognized as an executive department until 1870. Engaged, as the department is, in aiding the executive and judicial departments of the Federal Government in the enforcement of law, its duties have always extended to all the concerns of national life. Certain of the Department officers are specifically concerned with commercial matters. The solicitor for the Department of Commerce, for instance, acts as legal adviser to the Secretary of

Commerce and the bureau chiefs; the Assistant Attorney General, Customs Division, represents the Government in all cases involving reappraisement and classification of imported goods; the Solicitor of Internal Revenue is the legal adviser of the Commissioner of Internal Revenue, and an Assistant to the Attorney General has special charge of all questions arising under the anti-trust and interstate-commerce laws.

THE DEPARTMENT OF THE NAVY.

Naval affairs were first administered under the jurisdiction of the War Department, but on April 30, 1798, a separate department was created. A brief account of the growth of the Navy is given in Chapter XXXIX. Both in time of war and of peace the Navy and the Marine Corps are constantly called upon to protect American interests in one part of the world or another. The account of the movements of individual warships, contained in the Secretary's annual reports, indicates the wide scope and great utility of this service.¹ Moreover, by placing with American ship-builders orders for war vessels, the department requires the installation of improved equipment at the shipyards and facilitates the development of skilled workmen, whereby American establishments are placed more nearly upon a competitive basis in the construction of ships of all kinds.

The Bureau of Navigation of the Navy Department has charge of the naval wireless equipment, which in 1912 included 41 shore and 6 light-vessel stations. Several naval and military stations were in that year opened for the transmission and receipt of commercial radiograms, and others were made available in the case of a lack of private facilities.

The Hydrographic Office, which was originally established in 1842 as an independent bureau in conjunction with the United States Naval Observatory, has been a part of the Bureau of Navigation since 1866. It is charged with improving the means of safe navigation, both for vessels of the Navy and of the merchant marine, by providing accurate nautical charts, sailing directions, and manuals of instruction. Much of the information contained in its periodical publications is of such importance to mariners that it is "sent broadcast by radio," so that all vessels within reach may get it at once. Monthly charts and weekly bulletins covering the North Atlantic, monthly charts of the North Pacific, and less frequent charts of other oceans are published. These charts locate both fixed and temporary dangers to navigation, indicate the usual paths followed by storms at particular periods, the relative amounts of fog which may be met, the direction and force of prevailing winds, the direction of ocean currents, the variation of the magnetic needle, and the courses to be followed in crossing the ocean. These "steamship lanes" were originally suggested by Lieutenant M. F.

¹*Annual Report Navy Department, 1910, pp. 57-118.*

Maury, of the United States Navy, for routes between northern Europe and the United States, but until 1891 there was no agreement to follow them. In that year five companies, and in 1898 all companies, concerned in trans-Atlantic service agreed to do so. The office has also played an important part in inducing the steamship lines to change their courses during ice seasons in order to avoid danger. Ice reports are sent out over the ocean by wireless, and in 1912, following the *Titanic* disaster, a cruiser was detailed for ice-patrol duty in the North Atlantic. The Secretary of the Navy found it impracticable to detail a vessel for this work in 1913, but the Secretary of the Treasury placed two revenue cutters in this service.

The Naval Observatory, which grew out of the Department of Charts and Instruments, established in 1830, is separately organized, although its connection with the Hydrographic Office is so close that their consolidation has been urged. The Observatory publishes the *American Ephemeris and Nautical Almanac*, containing astronomical information for the guidance of vessels; determines the relative merits of navigation instruments, and establishes standard time and differences of longitude.

THE DEPARTMENT OF THE INTERIOR.

The Department of the Interior, which was created in 1849 to relieve other executive branches of the administration of burdensome affairs not closely related to their normal functions, and to provide means for the exercise of those neglected functions which relate more particularly to the arts of peace, has little direct connection with commerce. The inconsequential commerce with the Indians, which under the Constitution is to be regulated by the Federal Government, is supervised by the Indian Service. With the development of the railway service the department has been concerned, through the Commissioner of the General Land Office, who determines whether railroads have complied with the requirements of Congressional grants. From 1878 to 1904, an officer, first known as Auditor of Railroad Accounts, and later as Commissioner of Railroads, reported on the physical and financial conditions of companies receiving Government aid in lands or bonds, enforced the laws relating to such companies, examined their books, aided the Government directors appointed to their boards, and furnished information concerning their tariffs and accounts. His duties were transferred, in 1904, to the Lands and Railroads Division, and in 1907 to the General Land Office. The Interstate Commerce Commission was, for two years following its creation in 1887, required to submit an annual report to the Secretary of the Interior, who provided quarters for it, and passed upon its accounts and the appointment of its employes. At his own request the Secretary was relieved of these supervisory powers.

The rather nominal authority which the Secretary of the Interior possesses over the Territories, Alaska and Hawaii, affords him an opportunity to exercise an influence over their commerce. His authority consists largely in the receipt of reports from the governors and in the making of recommendations for legislation.

THE DEPARTMENT OF AGRICULTURE.

The Department of Agriculture was established in 1889 as the natural outgrowth of the agricultural activities of the Government, which began in 1836 with the distribution of seeds and plants by the Commissioner of Patents, and, in 1862, developed into a so-called "Department of Agriculture," which was in reality a detached bureau with a commissioner in charge.

Important commercial functions are exercised by one of its subdivisions, the Weather Bureau, which was established in 1890. Before that year, however, a part of the work now done by this bureau was accomplished by other agencies. As early as 1863 the Department of Agriculture published meteorological data compiled by the Smithsonian Institution, and upon the recommendation of the department's commissioner regular weather reports were inaugurated in 1870, when the Chief Signal Officer of the Army was authorized to give storm-warnings and to take meteorological observations. Since the organization of the Weather Bureau its duties have increased until they have attained a surprising variety, and its operations have extended into all parts of the world. Concisely stated, the activities of the Weather Bureau are these: It forecasts the weather; issues and displays its forecasts, together with storm, cold-wave, frost, and flood warnings; gages and reports the height of water in rivers; transmits marine intelligence over its telephone and telegraph lines and otherwise; reports actual temperature and rainfall conditions; conducts investigations in climatology and evaporation and makes and distributes meteorological observations. The weekly forecasts issued at Washington for the weather for a week in advance are prepared on the basis of regular cable and wireless reports from all over the northern hemisphere. Warnings of approaching storms were, in 1912, received from vessels sailing along the various coasts, and from eight special observing stations maintained in the West Indies during the hurricane season. The bureau has arranged with the various wireless services for disseminating broadcast over the oceans and the Gulf both forecast messages and storm-warnings. Through its display stations, the bureau reaches every port and harbor of any considerable importance on the Great Lakes and the seacoasts. The regular stations at eight strategic points maintain a vessel-reporting service, whereby information regarding passing vessels, wrecks, and marine disasters is promptly communicated to interested parties. The weather observers at all marine stations

report vessels in distress and send out calls for help which bring assistance. The Bureau publishes frequent meteorological charts of the oceans and Great Lakes.¹

THE DEPARTMENT OF COMMERCE.

After a statement has been made of the commercial activities of the eight departments of the Federal Government first established, the question might be asked, what important functions remain to be subserved by a Department of Commerce? Congressman Mann, of Illinois, speaking for the House Committee on Interstate and Foreign Commerce, answered the question in the course of the debate preceding the establishment, in 1903, of the Department of Commerce and Labor. He pointed out that, following the creation of the necessary administrative departments in the early period of United States history, Congress was conservative about establishing new departments, whose heads would be entitled to seats in the President's Cabinet, the efficiency of which would be destroyed if its size were unduly increased. Mr. Mann said:²

"It is evident that not more than one new Department of the Government is likely to be created at this time in view of our past policy, but it has seemed to your committee that the enormous interests in our country not engaged in agriculture but now engaged in trade and transportation, in manufacturing and mechanical pursuits, might well have gathered together into one new executive department of the Government those branches of the public service clearly related to their interests, and which could easily be detached from the Departments in which they now are."

Some of the Departments in existence prior to February 14, 1903, when considerations such as those stated above resulted in the passage of the act establishing the Department of Commerce and Labor, were then much more concerned with the development and regulation of commerce than they now are. Most of the bureaus and services now comprised within the Department of Commerce were originally established as branches of the older Departments, particularly the Treasury Department, from which were transferred, in 1903, the Bureaus of Navigation, Statistics, Standards, and Immigration, the Lighthouse

¹Other bureaus which are indirectly concerned with commercial regulation are the Bureau of Animal Industry, which supervises the movement of animals, meats and meat food products in interstate and foreign commerce, exercises important quarantine functions, and seeks to control and eradicate diseases of animals, particularly in times of epidemic; the Bureau of Plant Industry, which has on occasions made investigations into the best methods of marketing, transporting, and storing fruits; the Federal Horticultural Board, which administers the Federal plant quarantine act of 1912, having to do with the entry of foreign nursery stock and other plants and plant products, and the establishment and maintenance of a foreign and domestic quarantine on account of plant diseases and insect pests; the Office of Markets, which investigates and reports on the marketing and distribution of farm products; the Bureau of Chemistry, which inspects the conditions of manufacture, transportation, and sale of food and drug products, and makes investigations looking to improved methods of transporting food products; the Bureau of Statistics, which issues crop reports which are of great value to business men in prognosticating conditions; and the Office of Public Roads, which is energetically furthering the "good-roads movement."

²*Cong. Record*, XXXVI, 1903, p. 1036.

Board, the Lighthouse Establishment, the Steamboat-Inspection Service, the United States Shipping Commissioners, and the Coast and Geodetic Survey. From the Department of State came the Bureau of Foreign Commerce, and from the Department of the Interior, the Census Bureau. The U. S. Fish Commission and the so-called Department of Labor, then unattached to any of the eight executive departments, were annexed, and two new bureaus created, those of manufactures and of corporations. As its title and make-up indicate, the departmental functions were not confined to commerce, but included labor as well, but ten years later a separate Department of Labor was established.

The oldest of the institutions over which the Department of Commerce has supervision is the Lighthouse Service.¹ Although continuously in the Treasury Department until 1903, this service has many times been reorganized and placed under the supervision of various officers. By the act of August 7, 1789, Congress accepted the cession of the eight lighthouses then maintained by the States, and undertook to manage them through the Secretary of the Treasury. His functions were assumed by the newly created Commissioner of Revenue from 1792 until 1802, when the office was abolished. The secretary resumed control until 1813, when the commissioner's office was reestablished, and lighthouses were again placed within his jurisdiction. When for a second time his office was discontinued, in 1820, the management of the service was delegated to the Fifth Auditor of the Treasury, who remained in control, and was known as the General Superintendent of Lights, until 1852, when a more enduring organization was effected. The Lighthouse Board, then created, consisted of the Secretary of the Treasury, three naval officers, three engineer officers of the Army, and two civilians, eminent in science. In 1903 the Secretary of Commerce and Labor assumed the functions exercised before by the Secretary of the Treasury. The final act of reorganization was that of June 17, 1910, which abolished the Lighthouse Board and created in the Department of Commerce and Labor a Bureau of Lighthouses, with a Commissioner of Lighthouses in charge. The duties which devolve upon the service include the marking and lighting of the channels of harbors and navigable rivers; the installation and maintenance of aids to navigation; the testing of apparatus with a view to introducing improvements; and the publication of information concerning aids to navigation in the Weekly Notices to Mariners, which show the changes in lights, buoys, etc., and contain current information necessary for safe navigation.

Another institution, almost as old as the Government, by which commerce is facilitated and benefited, is the Census. The first census was taken in 1790, when the returns were made to the President. Beginning with 1800, the Secretary of State was given general supervi-

¹*Organization and Law of the Department of Commerce and Labor*, 65-66.

sion, which he retained until the establishment, in 1849, of the Department of the Interior, after which the head of that Department exercised supervisory functions until in 1903, when the work was transferred to the new Department of Commerce and Labor. Previous to 1902 the Census Office was discontinued at the expiration of the work of taking each decennial census and then reorganized for the succeeding census, but in that year it was transformed into a permanent and continuous institution. When it was transferred to the Department of Commerce and Labor in 1903, the designation was changed to "Bureau of the Census." Until 1880 United States marshals were required to take the census, but thereafter special supervisors and enumerators were employed.

The Census Bureau is now no longer maintained merely for the decennial enumeration of the population, but is charged with the compilation of special statistical reports on a variety of subjects. A census of manufactures is taken every five years, and the act providing for the census of 1910 required a similar census of agriculture. Under the act of 1902, moreover, the decennial collection of statistics is required in connection with transportation by water, express business, banking and loan institutions, the fishing industry, and in other fields. Quinquennially the bureau compiles statistics relating to street railways, telegraph and telephone lines, and electric light and power stations, and annually, on the production and distribution of cotton and forest products. These statistical reports are included in monographs affording valuable economic and historical information.

The Coast and Geodetic Survey was the first technical bureau established by the Government. In 1807 the President was "authorized to cause a survey of the coast of the United States to be made." The organization of the work was delayed by the war of 1812, and operations did not begin until 1816. The early work was done under the supervision of the Treasury Department, where the Survey remained until 1903, with the exception of two short periods, both before 1836, when it was temporarily supervised by the Secretary of the Navy. The connection with the Navy Department, nevertheless, was, until the Spanish-American war, a close one. For fifty years, previous to 1898, nearly one-half of the Survey vessels were both manned and officered by the Navy, but these duties have, since that time, been performed exclusively by civilians. The present organization dates from 1843, and the name "Coast and Geodetic Survey" from 1878. Previous to the latter year the appellation "Coast Survey" was used. The Survey is charged with the survey of the coasts of the United States and of coasts subject to its jurisdiction, and with the publication of charts covering these surveys. Its activities are not, however, confined strictly to the coasts. Rivers are surveyed to the head of tidewater or ship navigation; deep-sea soundings, and temperature and current observations

are taken in the Gulf Stream and Japan Current, as well as along the coasts; magnetic researches and observations are made on land and sea; heights and geographic positions are ascertained; and latitude and longitude are determined and triangulation work done in the United States. Publicity is given to the results of these observations through a variety of media, including some of especial benefit to mariners, such as sailing and harbor charts, general charts of the coast, Tide Tables, and Coast Pilots containing sailing directions. The Bureau is, with the Bureau of Lighthouses, a joint publisher of the weekly Notices to Mariners.

The Bureau of Foreign and Domestic Commerce is a consolidation of three bureaus, Statistics, Foreign Commerce, and Manufactures. Preceding the organization in the Treasury Department of the Bureau of Statistics (by the act of July 28, 1866), the Department had been systematically collecting statistics for nearly fifty years, under the authorization of the act of February 10, 1820. Even before that time the Secretary of the Treasury had been called upon by Congress for statistical reports concerning commerce. The information was secured by the collectors of customs, and compiled and published, after 1820, by a Division of Commerce and Navigation, which was consolidated with the Bureau established in 1866. The Bureau of Statistics originally published data relating to foreign trade alone; but, beginning in 1875, it was required to publish statistics of internal commerce, other than by railroad, as well. Since 1892 it has been required to publish statistics of imports and exports moving by rail as well as by water. A Statistical Office, established in the State Department in 1842, was organized in 1874 as the Bureau of Statistics. In 1897 its name was changed to Bureau of Foreign Commerce, to avoid confusion with other governmental statistical bureaus. Finally, in 1903, it was merged into the Bureau of Statistics above referred to. Its principal duty was the publication of consular reports. The final consolidation occurred in 1912, when with the Bureau of Statistics was combined the Bureau of Manufactures, to form the Bureau of Foreign and Domestic Commerce. The Bureau of Manufactures was one of the two new bureaus established in 1903. It was designed "to foster, promote and develop the various manufacturing industries of the United States, and markets for the same at home and abroad, . . . by gathering, compiling, publishing, and supplying all available and useful information concerning such industries and such markets, and by such other methods and means as may be prescribed by the Secretary or provided by law."

The Bureau of Foreign and Domestic Commerce is closely related to the promotion of commerce. To that end it issues publications containing a large amount of useful information. Daily Consular and Trade Reports, together with the reports of the commercial agents of the Department, contain up-to-date information regarding trade

conditions in foreign countries, opportunities for the expansion of both foreign and domestic trade, and information as to the service rendered by the Government for the promotion of commerce. Special bulletins relate to subjects of current commercial significance; a *World Trade Directory* shows the names of possible foreign buyers of American products; confidential circulars indicate current projects, involving purchases, which are of interest to American business men; the "Tariff Series" includes bulletins on such subjects as "Consular Regulations of Foreign Countries," and "Foreign Tariff Notes;" and a monthly sailing-dates bulletin shows the sailings from the principal ports of the United States to the principal ports of the rest of the world.

The publications mentioned are those which are not specifically related to the statistical functions of the bureau. The statistical publications are necessarily voluminous. The statistics of foreign commerce embrace tables showing imports and exports by articles, countries, and customs districts; the transit trade; the warehousing of imported goods; imports entered for consumption; ocean freight rates; and the movement of American and foreign vessels in the foreign trade. These statistics are collected in a large volume published annually. The *Statistical Abstract of Foreign Countries*, an annual publication, shows, in terms of American currency, weights, and measures, the imports into and exports from each country of the world. The *Foreign Commerce of the United States*, a monthly statement of the "total values of imports and exports," is also published. This publication, formerly entitled *Monthly Summary of Commerce and Finance*, has in the past contained monographs upon commercial and industrial subjects, and, until 1913, it presented figures concerning internal commerce, *i. e.*, the quantities of certain staple commodities, *e. g.*, live-stock, grain, produce, provisions, merchandise, lumber, fruits, coke, coal, and petroleum, handled at various principal markets. The Bureau also publishes *The Statistical Abstract of the United States*, a condensation of miscellaneous statistical information collected by the various branches of the Government.

The reason for the publication of so great a variety of statistics was stated by Secretary Nagle, in his annual report for 1911 (p. 78), as follows:

"Changes in the character of the imports and exports have materially affected trade currents, the share of our exports which is sent to Europe having fallen from approximately 80 per cent a quarter of a century ago to less than 64 per cent in 1911, and that to other parts of the world proportionately increased. These changes in the character of the commerce and its movements, as well as the increase in the volume of both imports and exports, have stimulated the desire on the part of the public for commercial information in much greater detail and to be presented with much greater promptness."

In 1905 four commercial agents were added to the staff of the Bureau of Manufactures and sent abroad with the object of promoting the foreign commerce of the United States. Manufacturers and

merchants, as well as the press, have expressed their appreciation of the services rendered by these agents through their reports on conditions abroad. Beginning with 1912, the commercial agents were also assigned to work at home, looking to the development of the export trade through personal contact with the manufacturers and merchants in whose interest they have carried on their investigations abroad. The number of men engaged in this work has been increased and the service extended. In order that this service may supplement rather than duplicate the work of consular officers, the men employed are chiefly technical experts, familiar with the conditions existing in particular branches of trade.

Another new departure in the work of the bureau lies in the cooperation which is now undertaken with representative trade organizations through conferences with their officers, through the use of their membership lists for the dissemination of confidential commercial information, and through filing with them plans and specifications for work which their members would be qualified to undertake. The part played by the Department in the organization of the new Chamber of Commerce of the United States, established in 1912, was a recognition of the importance of the trade associations. The Bureau, which for a year had been collecting information regarding American commercial associations, sent broadcast to these organizations an invitation to attend a conference called by the President. Some 700 delegates, representing 400 commercial associations located in every part of the United States, thereupon cooperated to form the new body which is to coordinate the unrelated efforts of commercial organizations, looking towards trade promotion.

The lack of as general a utilization of the facilities provided by the Government for the promotion of commerce as is possible has been recognized by the department, which, in 1911 and 1912, through the Bureau of Manufactures and its successor, the Bureau of Foreign and Domestic Commerce, published pamphlets entitled "Promotion of Commerce,"¹ containing outlines of the services maintained by the various governmental offices and bureaus. While the data thus presented were little more than an index to the activities of these agencies, the pamphlet was designed to be of assistance to manufacturers and merchants, to whom it was sent with the advice that they secure additional information from those bureaus and offices engaged in work of particular interest to them.

The work of the Bureau of Standards was inaugurated in 1830, when the Secretary of the Treasury was authorized to examine the weights and measures used in the various custom-houses. In 1836 the Department was ordered to furnish the States with copies of the standards adopted. Until 1901 the Superintendent of the Coast and Geodetic

¹Miscellaneous Series, Nos. 6, 6A, and 6B.

Survey, then in the Treasury Department, also served as the Superintendent of the Office of Construction of Standard Weights and Measures, a designation first used in 1882. The functions of the office were limited. The growing demand for a great variety of standards and for certification by the Government as to the accurateness of weights and measures led, in 1901, to the dissociation of the old office from the Treasury Department and its establishment as the National Bureau of Standards. The independent existence of the bureau was, however, of short duration, for in 1903 it was attached to the Department of Commerce and Labor and its name changed to "Bureau of Standards." The Bureau is the custodian of standard weights and measures which under the Constitution are fixed by the Federal Government. It constructs standards, together with their multiples and subdivisions, and compares the standards used in commerce, manufacturing, engineering, scientific investigations, and educational institutions with those adopted or recognized by the Government. The uniformity and precision in weights and measures, which the makers of the Constitution desired to insure, is secured by furnishing to official sealers, acting under governmental authority, and to private parties, accurate standards of length, mass, and capacity.

Congress first provided for a Steamboat Inspection Service by the act of July 7, 1838, thirty-one years after Robert Fulton, by running the *Clermont* from New York to Albany, demonstrated that the use of steam power in the propelling of ships was practicable. The enactment of the law was coincident with the initial trip of the *Great Western*, the first steamship built for the trans-Atlantic service. Under this law, Federal district judges appointed inspectors of hulls and boilers in their respective districts, but the supervision of the service was vested in the Secretary of the Treasury. The method of appointing inspectors was changed and added powers were given to the service from time to time. In 1852 the President was charged with the duty of appointing supervising inspectors; in 1871 a Supervising Inspector General, who is still in charge of the service, was authorized; and finally, in 1903, the Secretary of Commerce and Labor took the general jurisdiction out of the hands of the Secretary of the Treasury. The service is charged with the inspection of all vessels engaged as common carriers in interstate commerce, the licensing of the officers thereof, and the administration of the laws relating to such vessels and their officers and crews for the protection of life and property. It formulates such rules governing the building and operation of ships as public safety requires, inspects the materials used in steamship boilers, tests the boilers before they are placed in service, and determines the passenger-carrying capacity. It examines and licenses masters, chief mates, other mates in charge of a watch, pilots and engineers of steamships, and masters and chief mates of sailing-vessels of over 700 tons. These licenses it is empowered to revoke, in cases of incompetence, misbehavior, or negli-

gence. An annual inspection is made of the hulls, appliances, boilers, and machinery of all steam, gas, and motor vessels, to determine their stability, accommodations, and safety, including the provision of fire apparatus, life preservers, and life boats. Sailing-vessels over 700 tons and other vessels and barges of over 100 tons are also inspected annually with reference to the stability of their construction. Necessary repairs may be required to be made.

The regulations which the service makes as to the operation of vessels upon navigable waters relate to such subjects as the passing of ships, the transportation of gunpowder, the carriage on non-passenger vessels of persons not belonging to the crew, and the issuance of special permits for excursions. The laws for the protection of life and property aboard vessels, the enforcement of which is committed to the service, are of varied nature and considerable volume. They relate, among other things, to non-transportable goods, maltreatment of crews, commission of crimes aboard ship, and installation of fire-fighting and life-saving appliances.

The bureau in the Department of Commerce which is perhaps most vitally concerned with maritime commerce is that of Navigation, which is entirely distinct from the bureau of the same name in the Navy Department. Its varied duties were, at the time of its establishment under the Secretary of the Treasury in 1884, performed by a number of agencies in his Department and by the circuit courts. Various functions have since been added, and the bureau, which is one of those transferred to the Department of Commerce and Labor in 1903, is now charged with the enforcement of the great volume of Federal navigation laws, covering a wide range of subjects, and with the recommendation of changes in those laws. The bureau has over the commercial marine, including the merchant seamen of the United States, a supervision which is limited only by the grant of specific authority in certain respects to other governmental agencies. It "registers" American vessels engaged in the foreign trade, "enrolls" those engaged in the inland and coastwise trade, and "licenses" those of the latter which are of less than 20 tons measurement. It supervises the laws relating to the admeasurement of vessels, their original letters and official numbers, publishes annually a list of the vessels of the United States, and collects statistics of the merchant marine and ship-building industry. The commissioner examines the accounts of port collectors, surveyors of customs, and shipping commissioners, with respect to such matters as fines, penalties, and forfeitures required under the navigation laws, services to vessels, navigation fees, amounts collected on account of decease of passengers, tonnage-tax collections, and shipment and discharge of seamen.

The bureau relies for the fulfillment of its varied functions upon the cooperation of other agencies. The enforcement of the navigation laws, for instance, has from the time of its establishment been intrusted

chiefly to customs officers, who previously had jurisdiction in the matter. Those functions which relate to the protection of seamen are administered by shipping commissioners who were first appointed in 1872, and are stationed at important ports of entry on the seaboard. At points where there is no shipping commissioner the collector of the port performs the functions elsewhere assigned to the commissioners, including the registration of men seeking employment as seamen, the superintendence of their engagement and discharge, the rendition of aid to masters in compelling seamen to be aboard ships at the agreed time, and the facilitation of apprenticeships. The wide scope of the bureau's operations makes its commissioner an authority on maritime subjects. His annual reports contain not only valuable statistical data concerning the American merchant marine, but information in relation to registry laws, regulation of radiotelegraphy, ship subsidies, safety of life and property at sea, and other current questions of maritime policy.

The Bureau of Corporations was established in 1903, by the act which created the Department of Commerce and Labor, to perform duties of an investigative and informational character. Its powers of inquiry and publicity constituted an important part of the regulative machinery provided for corporations by the Federal Government. On the basis of its investigations into the organization, conduct, and management of joint stock companies and corporate combinations, including those engaged in interstate and foreign commerce, the President was enabled to make recommendations to Congress for legislation to regulate commerce. The Bureau of Corporations, as stated below, was, in 1914, merged into the Federal Trade Commission.

THE DEPARTMENT OF LABOR.

The only bureau of the new Department of Labor, established in 1913, which is closely associated with commercial matters is that dealing with immigration. In 1891 the office of the Superintendent of Immigration was established in the Treasury Department, and thereafter the National Government undertook the direct supervision of immigration matters. These had theretofore been left to State officials, who, after 1882, acted under the direction of the Secretary of the Treasury. The Bureau of Immigration, with a commissioner general in charge, was established in 1895, transferred to the Department of Commerce and Labor in 1903, and to the Department of Labor in 1913. From 1907 to 1913 it was known as the Bureau of Immigration and Naturalization, but two separate bureaus in the Department of Labor now deal with these questions. The immigration and Chinese exclusion laws are administered by the Bureau of Immigration, which maintains a rigid surveillance over all arriving steamships, as well as over emigrants departing from important European ports, destined to the United States.

INDEPENDENT GOVERNMENTAL AND INTERNATIONAL AGENCIES.

Of the agencies of government, unaffiliated with any of the executive departments, that having the greatest power to regulate commerce is the Interstate Commerce Commission, a body which, since its establishment in 1887, has become a powerful regulative agency, exercising a great influence over interstate transportation. Although designated as a "commerce" commission, its functions relate more specifically to matters of transportation. By virtue of its control over railroads and an increasing authority over water carriers, the commission has been able to regulate rates, eliminate special favors, and establish more convenient and safer service, thereby greatly facilitating the development of commerce.¹

In 1914, Congress created a Federal Trade Commission which took the place of the Bureau of Corporations. The Federal Trade Commission has much larger powers than the Bureau of Corporations possessed. It is an investigating and supervisory body created primarily for the purpose of maintaining fair competition among corporations engaged in interstate trade. Congress gave the Commission, which is a body of five men, large powers of investigation and minor powers of regulation. The creation of the Commission was intended to be a step towards the ultimate goal of Federal regulation of corporations engaged in interstate commerce.

Aid, regulation, and protection are extended to commerce by the Federal Government, not only through national agencies, but also through international bureaus, commissions, and congresses. Of these, the Pan-American Union has been the most active in fostering commerce. In 1881 James G. Blaine, when Secretary of State, suggested the convocation of a Pan-American conference, which was held in Washington in 1889-90. This conference established the International Bureau of American Republics, known since the fourth conference, held in 1910, as the Pan-American Union. While the union performs many duties, largely of an informational character, its great aim is to develop and maintain closer relations of commerce and friendship between the 21 member republics of the western hemisphere. Its publications, including a monthly magazine, special reports, and hand-books, relate particularly to commercial questions. An extensive correspondence looking to the promotion of trade is carried on, not only with the governments of the member countries, but with manufacturers, merchants, and others.²

¹The commission is discussed in vol. I, chap. xvii.

²Other international unions concerned with commerce, of which the United States is a member, are: The Universal Postal Union, International Radiotelegraphic Union, International Railway Congress, Permanent International Association of Navigation Congresses, Union for the Protection of Industrial Property, Metric Union, International Union for the Publication of Customs Tariffs, and International Office of Public Health. These are discussed in Reinsch, *Public International Unions*, etc.

THE JUDICIARY AND LEGISLATIVE AGENCIES.

The agencies thus far considered in discussing government aid and regulation of commerce were those within the executive branch of the Government. A survey of the Federal Judicial system indicates that there have been two courts established for the handling of commercial matters—the United States Court of Customs Appeals and the United States Commerce Court, both of recent creation.

The Court of Customs Appeals was created August 5, 1909, to hear all appeals from the decision of any board of United States General Appraisers in customs cases, relating to the classification of merchandise, the rate of duty assessed, fees and charges connected therewith, and any other appealable questions as to the laws and regulations governing the collection of the customs revenues.

The Commerce Court, in existence from 1910 to 1913, was designed to effect a speedy, uniform, and systematic enforcement of the interstate commerce law. Congress established the court upon the recommendation of President Taft, for the purpose of creating a tribunal which should eventually be a body of experts qualified to undertake the consideration of technical questions in a special field. The court, for reasons stated in Volume I, Chapter XVII, was disestablished after an existence of only three years.

The consideration of the legislative machinery of the Federal Government which deals with commerce has been left until the last, because, despite its importance, it is a changing mechanism and one which has little actual contact with commerce. Through its instrumentality are drafted the laws which are administered by the agencies which have already been considered. Although the legislative body is the creative body, and not the one which performs the specific acts of "aid and regulation" which have been considered in this chapter, its powers to aid and regulate commerce are none the less important. These powers are exercised largely through committees and commissions.

When the National Government came into existence, the general practice was to create select committees to handle subjects as they arose, and after the completion of the work so delegated, the committees ceased to exist. Some idea of the difficulties involved in this method of procedure may be gleaned from the fact that in the Third Congress, for instance, there were at least 350 select committees. Gradually the practice grew of creating standing committees, to whom were referred bills relating to the general subjects, over which they were given jurisdiction. This process has continued, until there are a large number of standing and a very few select committees at each session. The committee chambers are not only the laboratories where the legislative work of Congress is in large measure done; they also furnish the means whereby public opinion may most effectively be brought to bear

upon proposed measures, and the hearings which the committees hold do much to inform the public of the issues at stake in important national affairs upon which legislation is pending. In the period from 1902 to 1909, the House Committee on Interstate and Foreign Commerce alone issued 89 publications, including reports of public and private hearings, special investigations, etc., dealing with important commercial questions.

Of the Senate committees, those particularly concerned with commerce are the following: Commerce; Expenses in the Department of Commerce; Foreign Relations; Immigration; Inter-Oceanic Canals; Interstate Commerce; Public Health and National Quarantine; Railroads; Standards, Weights, and Measures; Transportation Routes to the Seaboard; Transportation and Sale of Meat Products. House committees similarly concerned are: Alcoholic Liquor Traffic; Expenditures in the Department of Commerce; Foreign Affairs; Immigration and Naturalization; Interstate and Foreign Commerce; Merchant Marine and Fisheries; Railways and Canals; Rivers and Harbors.

The Government of the United States has gradually built up many agencies for the regulation of commerce. Each of the three great branches of the Federal Government, but the executive branch in particular, is concerned with the regulation of trade. These governmental agencies have varied activities, many of which are of great importance. The United States Government, however, is the patron rather than the autocrat of commerce, its policy being to maintain commercial freedom by means of such restrictions as are demanded by the public for its own protection.



UNIVERSITY OF CALIFORNIA LIBRARY
BERKELEY

**THIS BOOK IS DUE ON THE LAST DATE
STAMPED BELOW**

Books not returned on time are subject to a fine of 50c per volume after the third day overdue, increasing to \$1.00 per volume after the sixth day. Books not in demand may be renewed if application is made before expiration of loan period.

LIBRARY USE

MAY 12 1917

OCT 12 1954

OCT 24 1925

OCT 12 1954 LU

OCT 24 1925

OCT 13 1925

MAR 18 1929

MAR 18 1929

AUG 8 1930

150ct'54GH
OCT 1 1954 LU

50m-7,'16

336270

H175

U66H2

UNIVERSITY OF CALIFORNIA LIBRARY

